

IN THE MATTER OF MERCHANT MARINER'S DOCUMENT NO. Z-460511 AND ALL
OTHER SEAMAN DOCUMENTS

Issued to: Willie C. SCOTT

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1657

Willie C. SCOTT

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 26 October 1966, an Examiner of the United States Coast Guard at New Orleans, La., suspended Appellant seaman documents for six months outright upon finding him guilty of misconduct. The specification found proved alleges that while serving as an ordinary seaman on board the United States SS SHIRLEY LYKES under authority of the document above described, on or about 12 August 1966, Appellant wrongfully assaulted and battered with his fist Mr. Finley Burch, a fellow crewmember, while the vessel was at sea.

At the hearing, Appellant elected to act as his own counsel. Appellant entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence entries from the ship's shipping articles and from its Official Logbook, and the testimony of four witnesses.

In defense, Appellant offered in evidence the written statement of a fellow crewmember. It was admitted into the record by stipulation of the parties.

At the end of the hearing, the Examiner rendered a written decision in which he concluded that the charge and specification had been proved. The Examiner then entered an order suspending all documents issued to Appellant for a period of six months outright.

The entire order was served on 1 November 1966. Appeal was timely filed on 10 November 1966.

FINDINGS OF FACT

On 12 August 1966, Appellant was serving as an ordinary seaman on board the United States SS SHIRLEY LYKES and acting under authority of his document while the ship was at sea. While in the ship's messroom on the morning of this day, Appellant inquired of a fellow crewmember, Mr. Finley Burch, who had sat himself at the

mess table for breakfast, why he did not delay his breakfast until after the members of the watch, which was shortly to go on duty, had completed their breakfast. Mr. Burch paid the remarks no heed and Appellant then struck Mr. Burch with his fist.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the evidence does not support the Examiner's findings.

APPEARANCE: Ricks and Ricks, Attorneys at Law, Houston, Texas, by Lester M. Ricks, Jr., Esq.

OPINION

Four witnesses corroborated, with the testimony, the entry from the ship's Official Logbook indicating that Appellant did commit offense alleged in the specification. Clearly, this constitutes a prima facie case against Appellant, who offered nothing in rebuttal except the following statement made by one of the witnesses soon after the incident occurred and while the witness was still aboard ship:

"I was sitting close to Scott [Appellant] at the breakfast table. An argument occurred between Scott and Burch [the victim] as to the seating arrangements in the messroom. Words were passed and Scott got up. His back was then to me. I did not see Scott strike Burch. I do understand from others that Burch was struck."

In my opinion, this statement is insufficient to rebut the prima facie case established by the Investigating Officer and I must conclude that the Examiner's order should be affirmed.

ORDER

The order of the Examiner dated at New Orleans, La., on 26 October 1966, is AFFIRMED.

P.E. TRIMBLE
Vice Admiral, U.S. Coast Guard
Acting Commandant

Signed at Washington, D.C., this 20th day of September 1967.

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EVIDENCE

Sufficiency of

